

January 9, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L05P0011**
Proposed Ordinance No. **2006-0566**

KENTLAKE HIGHLANDS DIVISION III

Preliminary Plat Application

Location: 29601 – 216th Avenue Southeast

Applicant: Kentlake Highlands, LLC
represented by Katherine Orin
825 – 5th Avenue, Suite 202
Kirkland, Washington 98033
Telephone: (425) 202-3602
Facsimile: (425) 202-3694

King County: Department of Development and Environmental Services (DDES)
represented by Chad Tibbits
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7194
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to revised conditions
Examiner's Decision:	Approved, subject to further revised conditions

EXAMINER PROCEEDINGS:

Hearing Opened:	December 12, 2006
Hearing continued administratively:	December 12, 2006
Hearing Closed:	December 13, 2006

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Applicant: Kentlake Highlands, LLC
Mike Walsh
825 Fifth Avenue NE, Suite 202
Kirkland, WA 98033
425-202-3626

Engineer: Triad Associates
12112-115th Avenue NE
Kirkland, WA 98033
425-821-8448

STR: SW 04-21-06
Location: The site is located at 29601-216th Avenue Southeast
Zoning: R-4
Acreage: 10.43 acres
Number of Lots: 63
Density: Approximately 6 units per acre
Lot Size: Approximately 4,800 to 6,400 square feet in size
Proposed Use: Single Family Detached Dwellings
Sewage Disposal: Soos Creek Water & Sewer District
Water Supply: Covington Water District
Fire District: King County Fire District No. 17
School District: Kent School District No. 415

Application completeness date: June 7, 2005
Associated applications: Road Variance File No. L05V0047
Drainage Adjustment File No. L05V0040

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation (KCDOT) testimony are found to be correct and are incorporated herein by reference.
3. The subject property is a 10.43-acre, rectangular parcel located in the unincorporated county on the south side of Southeast 296th Street, an arterial road, where it curves northwesterly to become 216th Avenue Northeast, across from the City of Black Diamond. The site terrain consists of a gentle slope generally from east to west. The property is vegetated with pasture grasses and scattered mixed-species trees and brush. The site lies within the Covington Creek sub-basin of the Green River watershed. No defined critical areas such as streams and wetlands

are located onsite or within close proximity. A single-family residence and outbuildings are located in the northeast central portion of the site, provided access via a private driveway from Southeast 296th Street. The property surroundings consist of an urbanizing area adjacent to the City of Black Diamond, where fairly standard-density new suburban residential developments are being constructed in an area of previously lower-density large-lot suburban/semi-rural parcels. The properties to the east, south and west have been developed or are in the process of being developed as similar standard suburban-density single-family residential subdivisions, consisting of the approved subdivision of *Kentlake Highlands Division IA*, and the approved preliminary plats, under construction, of *Division IB* and *Division II*.

4. Applicant Kentlake Highlands, LLC, proposes subdivision of the property into 63 lots for detached single-family dwellings, as well as separate tracts for recreation, pedestrian access and private lot access tracts. Public road access to the proposed lots would be provided by the extension of Southeast 297th Place, which is currently within the under-construction preliminary plat of *Division II* to the east. Additionally, the internal road system would connect to Southeast 297th Street in the northwest portion, connecting to *Division IB*. (The roadways within the adjacent Kentlake Highlands divisions which will connect to the subject development were designed to accommodate the added traffic generated by the subject subdivision.) The internal road system would essentially form a loop within the plat. No direct vehicular access would be provided to Southeast 296th Street/216 Avenue Southeast on the northeast corner of the site; however, pedestrian access would be provided directly from the internal road system to the fronting arterial.
5. The lot density would be approximately 6 units per acre, greater than the basic 4 units per acre normally permitted under the assigned R-4 zoning, through the use of 21 dwelling unit density credits pursuant to the Transfer of Development Rights (TDR) provisions of Chapter 21A.37 KCC.
6. The site development stormwater drainage will be collected onsite and conveyed to an offsite detention/water quality facility constructed with *Division I* under a shared facility plan (approved under drainage adjustment L05V0040, the conditions of approval of which are incorporated as conditions of preliminary plat approval herein). The property is subject to the Conservation flow control and Basic water quality requirements in the 2005 King County Surface Water Design Manual (KCSWDM).
7. Traffic impacts of the proposed development will be adequately mitigated under applicable County code requirements as proposed. The development has been granted a traffic Certificate of Concurrency under Chapter 14.70 KCC. The development is also subject to the standard collection of MPS mitigation fee payments under Chapter 14.75 KCC, which apply to each dwelling unit. In the traffic analysis for the proposed development, intersection standard mitigation under Chapter 14.80 KCC was projected to be required given the traffic generated by the proposed subdivision and the previously-existing Levels of Service (LOS) at the intersections of Covington-Sawyer Road and Southeast 288th Street with 216th Avenue Southeast, but those intersections were improved by other developments, including the *Kentlake Highlands Division I* subdivision directly adjacent and the nearby *Kahn* plat (L03P0020; aka *Adler's Cove*); no intersection standard mitigation is required of the subject development.

8. The development's resident public schoolchildren at the elementary and junior high school levels will be bused to their respective schools from bus stops at the Southeast 296th Street/219th Avenue Southeast intersection or the Covington-Sawyer Road/215th Avenue Southeast intersection. High school students will walk to the high school which is located south of the site. Existing walkway conditions consisting of sidewalks are provided offsite sufficient to provide safe walking conditions for school pedestrians (and sidewalks will be provided sufficiently in the internal roads of the site as well).
9. The Applicant has entered into a fire services impact mitigation agreement with Fire District No. 17, which shall be incorporated appropriately in the conditions of approval herein.

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-4 zone and the TDR allowances permitted under Chapter 21A.37 KCC.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on March 21, 2006, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *Kentlake Highlands Division III* subdivision, as revised and received March 21, 2006, is approved subject to the following conditions of approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the minimum density requirements of the R-4 zone classification and the maximum density permitted under the proposed use of Transfer of Development Rights (TDR) density credits. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be

approved at the discretion of the Department of Development and Environment Services. The applicant shall provide verification of the TDR density credits with the submittal of the engineering plans and final plat, in conformity with Chapter 21A.37 KCC. If a conforming TDR certificate is not submitted, the applicant shall redesign the plat to reflect the number of lots permitted based upon the allowable density without TDR credit. This will result in the reconfiguration and loss of lots.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the approved preliminary plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the King County Surface Water Design Manual (KCSWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 2005 KCSWDM and applicable updates adopted by King County prior to or on the date of vesting. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. A surface water adjustment (L05V0040) is approved for this site. All conditions of approval for this adjustment shall be met prior to or concurrent with approval of the engineering plans.

- e. The site is subject to the Conservation flow control and Basic water quality requirements in the KCSWDM. A shared facility plan is approved under the above adjustment, to allow for the use of the existing Kentlake Highlands Div 1 facility. All modifications needed to accommodate the drainage from Kentlake Highlands III shall be shown on the engineering plans.
7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- a. Road A, C and the portion of Road B in the eastern portion of the plat running north from Road A to Road C shall be improved at a minimum to the urban subcollector street standard.
 - b. Road B elsewhere (running south from Road A and looping through the southern and western portions of the plat to Road C) shall be improved to the urban subaccess street standard.
 - c. The proposed private access tracts, including the portion of Road B north of Road C, and joint use driveways shall comply with Sections 2.09 and 3.01 of the KCRS, respectively. These tracts shall be owned and maintained by the lot owners served. Notes to this effect shall be showed on the engineering plans and the final plat.
 - d. Modifications to the above road conditions may be considered according to the variance procedures in Section 1.08 of the KCRS.
 - e. A road variance (L05V0047) is approved for this site. All conditions of approval for this variance shall be met prior to the first residential building permit issuance.
 - f. Dedicated public road access to the boundary of the site via Southeast 297th Place on the east and/or Southeast 297th Street on the west shall be established prior to final plat approval.
8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected

immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

11. There shall be no direct vehicular access to or from SE 296th Street from this plat. A note to this effect shall appear on the engineering plans and the final plat.
12. Additional right-of-way shall be dedicated along the SE 296th Street property line, to be consistent with right-of-way dedicated from Kentlake Highlands Division II and matching the existing right-of-way line of 216th Avenue SE as shown on the preliminary plat plans.
13. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
14. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation tracts.
15. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.

- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if SE 296th Street is on a bus route. If SE 296th Street is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
16. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.
17. To implement K.C.C. 16.82.156 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of K.C.C. 16.82.156, as well as the conceptual tree retention plan dated March 21, 2006. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 16.82.156. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. 16.82.
18. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. 16.82.
19. Subject to any agreement amendments agreed upon between the property owner/developer and Fire District No. 17, any provisions of the fire services impact mitigation agreement with the Fire District required to be implemented prior to final plat approval shall be so implemented.

ORDERED January 9, 2007.

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED January 9, 2007 to the following parties and interested persons of record:

Kentlake Highlands LLC Attn: Michael Walsh 825 - 5th Ave., # 202 Kirkland WA 98033	Lenard Locken P.O. Box 357 Black Diamond WA 98010 Kirkland WA 98033	Brian Ross Kentlake Highlands LLC 825 - 5th Ave. NE
Seattle KC Health Dept. E. Dist. Environ. Health 14350 SE Eastgate Way Bellevue WA 98007	Triad Associates 12112 - 115th Ave. NE Kirkland WA 98034 Kirkland WA 98033	Yarrowbay Group Attn: Katherine Orni 825 - 5th Ave., #202
Kim Claussen DDES/LUSD MS OAK-DE-0100	Lisa Dinsmore DDES/LUSD MS OAK-DE-0100	Nick Gillen DDES/LUSD MS OAK-DE-0100
Shirley Goll DDES/LUSD MS OAK-DE-0100	Kristen Langley DDES/LUSD MS OAK-DE-0100	Chad Tibbits DDES - LUSD MS OAK-DE-0100
Steve Townsend DDES/LUSD MS OAK-DE-0100	Larry West DDES/LUSD MS OAK-DE-0100	Kelly Whiting KC DOT, Rd. Svcs. Div. MS KSC-TR-0231
Bruce Whittaker DDES/LUSD MS OAK-DE-0100		

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before January 23, 2007***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before January 30, 2007***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE DECEMBER 12, 2006, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L05P0011.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Chad Tibbits, Bruce Whittaker and Kristen Langley, representing the Department; and Katherine Orni representing the Applicant.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services file no. L05P0011
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report, dated December 12, 2006
- Exhibit No. 3 Application for Land Use Permits received May 10, 2005
- Exhibit No. 4 SEPA Environmental checklist received October 17, 2006
- Exhibit No. 5 SEPA Determination of Non-significance issued November 9, 2006
- Exhibit No. 6 Affidavit of Posting indicating a posting date of November 10, 2006; received by DDES on November 14, 2006
- Exhibit No. 7 Preliminary plat map received March 21, 2006 (revised)
- Exhibit No. 8 Revised Level 1 Downstream Analysis prepared by Triad Associates received May 26, 2006
- Exhibit No. 9 Certificate of Water Availability from the Covington Water District dated April 14, 2005
- Exhibit No. 10 Certificate of Sewer Availability from Soos Creek Water and Sewer District dated November 2, 2004
- Exhibit No. 11 Conceptual Landscape and Recreation Plan received March 21, 2005
- Exhibit No. 12 Revised Grading and Utility Plan received March 21, 2005
- Exhibit No. 13 Fire Mitigation Agreement with Fire District 17, dated October 31, 2005
- Exhibit No. 14 Revision to Condition 7.c
- Exhibit No. 15 December 14, 2006 (received by e-mail December 13) DDES memorandum regarding landscaping inspection fees

PTD:ms
L05P0011 RPT